



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0347]

Commercial Driver's License Standards: Application for Exemption; Navistar, Inc.

(Navistar)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Navistar, Inc. (Navistar) for a commercial motor vehicle (CMV) driver employed by its business partner MAN Truck & Bus AG (MAN) of Munich, Germany. Navistar requested an exemption for Mr. Jerome Douay, a Product Engineer Senior Manager with MAN. He holds a valid German commercial license. MAN is partnering with Navistar to help develop technology advancements in fuel economy and emissions reductions. Mr. Douay wants to test drive Navistar vehicles on U.S. roads to better understand product requirements in "real world" environments, and verify results. Navistar believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** and expires **[INSERT DATE 5 YEARS FROM PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West

Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202-366-4325. E-mail: MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to www.regulations.gov and insert the docket number, “FMCSA-2018-0347” in the “Keyword” box and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Navistar has applied for an exemption for Jerome Douay from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Mr. Douay is unable to obtain a CDL in any of the U.S. States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA-2018-0347.

The exemption would allow Mr. Douay to operate CMVs in interstate or intrastate commerce to support Navistar field tests designed to meet future vehicle safety and environmental requirements and to promote technological advancements in vehicle safety systems and emissions reductions. Mr. Douay needs to drive Navistar vehicles on public roads

to better understand “real world” environments in the U.S. market. According to Navistar, Mr. Douay will typically drive for no more than 6 hours per day for 2 consecutive days, 50 percent of the test driving will be on two-lane State highways, and 50 percent will be on Interstate highways. The driving will consist of no more than 250 miles per day, for a total of 500 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Douay holds a valid German commercial license, and as explained by Navistar in its exemption request, the requirements for that license ensure that, operating under the exemption, he would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation. Furthermore, according to Navistar, Mr. Douay is familiar with the operation of CMVs worldwide. Navistar requests that the exemption cover the maximum allowable duration of 5 years.

IV. Method to Ensure an Equivalent or Greater Level of Safety

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver’s ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); July 12, 2016 (81 FR 45217); July 25, 2016 (81 FR 48496); August 17, 2017 (82 FR 39151)].

V. Public Comments

On December 18, 2018, FMCSA published notice of this application and requested public comments (83 FR 64930). One comment was submitted. Mr. Michael Millard wrote, in part, “If the FMCSA approves the application to allow the German engineer to operate in the US

utilizing the European CDL then the FMCSA should set provisions in the exemption outlining the driver must possess a valid medical certificate per Part 391, be tested for controlled substance and alcohol per Part 382 and fully understand Parts 392 through 397.”

VI. FMCSA Decision

Based upon the merits of this application, including Mr. Douay’s extensive driving experience and safety record, FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions for the Exemption

FMCSA grants Navistar and Jerome Douay an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Douay to drive CMVs in this country without a State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350-399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Navistar or its partner MAN; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Navistar must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Navistar must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Douay fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower

level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: April 8, 2019.

Raymond P. Martinez,

Administrator.

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